

Fraud in School-based Programs funded by Medicaid

by

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What this presentation covers

- Types of investigations
- Overview of statutes & regulations
- Requirements for School-based providers
- Covered services and expenses
- Sources of complaints
- How a Medicaid investigation is conducted
- OIG/MPI authority to obtain records

Medicaid Preliminary Investigations

907 KAR 1:671

- **When to conduct a Medicaid Preliminary Investigation;**
- **Who is responsible for conducting Medicaid Preliminary Investigations; and**
- **Who is responsible for conducting full Medicaid investigations**

Medicaid Preliminary Investigations

Secondary responsibilities include investigating:

1. Cardsharing; and
2. Non-Emergency Medical Transportation (NEMT) cases

Criminal Statutes Relating to Provider Fraud

KRS 194A.500(4)

Defines a '**Provider**' as “an individual, corporation, association, facility, or institution that is providing or has been approved to provide medical assistance to recipients under the Medical Assistance Program.”

Types of Medicaid Providers

- Hospitals
- Physicians
- Dentists
- Advanced Registered Nurse Practitioners
- Nursing Facilities
- **Schools**
- Transportation Providers
- Durable Medical Equipment Companies
- Pharmacies

To name but a few.

SCHOOL-BASED PROVIDERS

A school district that requests to participate as a school-based health care provider shall not be qualified to provide school-based health services:

- **(a) Until it has enrolled as a Medicaid provider pursuant to 907 KAR 1:672;**
- **(b) Until it has been certified by the Department of Education to provide school-based health services; and**
- **(c) Unless it is currently compliant with the Medicaid provider participation requirements established in 907 KAR 1:671.**

- **From 907 KAR 1:715. School-based health services**

SCHOOL-BASED PROVIDERS

A Medicaid school-based health services provider shall:

- (a) Submit to an annual review by the Department of Education to ensure compliance with the standards for continued participation as a Medicaid provider;
- (b) Have an on-site survey completed by the Department of Education as necessary to determine compliance with the Medicaid Program;
- (c) Take action as specified by the Department of Education to correct a deficiency if found to be in noncompliance with the provision of services outlined in 707 KAR 1:320 or this administrative regulation;
- (d) Agree to implement a quality assurance program approved by the Department of Education for the provision of Medicaid-covered services within one (1) year from the date the Department of Education recommends enrollment to the Medicaid Program;

SCHOOL-BASED PROVIDERS

A Medicaid school-based health services provider shall:

- (e) Maintain a current list of school-based health services that the school district provides;
- (f) Maintain records on each SBHS recipient who receives services reimbursed by Medicaid. The records shall:
 - 1. Identify the child, services performed, and quantity or units of service;
 - 2. Be signed and dated by the professional who provided or supervised the service;
 - 3. Be legible with statements written in an objective manner;
 - 4. Indicate progress being made, any change in treatment, and response to the treatment; and
 - **5. Be retained for a minimum of five (5) years** plus any additional time required by law; and
- (g) Comply with 907 KAR 1:671 and 1:672.

COVERED SERVICES & EXPENSES

The following services shall be covered if provided to address a medical or mental disability and to assist an individual in benefiting from special education programming which is included, authorized, and provided in accordance with the individualized education program (IEP):

- (a) Nursing;
- (b) Audiology;
- (c) Speech and language;
- (d) Occupational therapy;
- (e) Physical therapy;

COVERED SERVICES & EXPENSES

The following services shall be covered if provided to address a medical or mental disability and to assist an individual in benefiting from special education programming which is included, authorized, and provided in accordance with the individualized education program (IEP):

- (f) Behavioral health services;
- (g) Incidental interpreter services provided in conjunction with another covered service;
- (h) Orientation and mobility services;
- (i) Respiratory therapy;
- (j) Assistive technology devices and appropriate related evaluations if the devices purchased by the Medicaid Program become the property of the SBHS recipient; and
- (k) Special transportation with (certain) limitations.

RELEVANT STATUTES & REGULATIONS

Criminal Statutes Relating to Provider Fraud

KRS 194A.505(6)

No person shall, with intent to defraud or deceive, devise a scheme or plan a scheme or artifice to obtain benefits from any assistance program by means of false or fraudulent representations or intentionally engage in conduct that advances the scheme or artifice.

Criminal Statutes Relating to Provider Fraud

KRS 194A.990§4-6(b) – Penalties associated with violations of KRS 194A.505

- Class D felony or Class C felony if over \$10,000
- Repay all payments to which provider was not entitled
- Three times the amount of payments to which provider was not entitled
- Reimburse expenses related to enforcement of 194A.505

RELEVANT STATUTES & REGULATIONS

Civil Statute Relating to Provider Fraud & Penalties

Under **KRS 205.8467(1)**, provider penalties include:

- (a) Repay, with interest, payments received in violation of KRS Chapter 205
- (b) Civil penalty equal to 3 times the overpayment
- (c) Civil penalty of \$500 for each false claim
- (d) Legal fees, cost of investigation & enforcement
- (e) Be removed as a Medicaid provider for specified periods

See KRS 205.8451 et seq.

Complaint Review Process

Medicaid fraud (non-eligibility) complaints are reviewed by a Medicaid Services Specialist

Examples:

- Provider Fraud
- Third Party Liability (TPL)
- Medical Identification Card Sharing
- Overutilization
- Drug Seeking

The Investigative Process

- Review complaint Review claims data, related procedure codes, etc. on the EDS MMIS claims system
- Find and read all relevant policy related to the issues/allegations in the complaint
- Identify & communicate with the appropriate policy & professional experts in DMS

The Investigative Process

An investigator will review the complaint & note:

- Date complaint was received
- All issues & allegations
- Any possible witnesses (e.g., provider employees, patients, etc.)
- Any sources of documentation
- Identify the time period of possible fraud

When an investigator shows up ...

An investigator will have a list of medical files to be requested, and after determining your operating hours, will show up in person to collect them. These are typically drop-by visits and are not scheduled ahead of time.

Provider Records

907 KAR 1:672(4) et seq.

Requires Medicaid providers to maintain documentation of the services rendered, diagnoses, medical necessity, and this documentation must be maintained for five (5) years from the latter of date of final payment or completion of investigation.

Authority to Obtain Records

907 KAR 1:672(2)(6)(b) requires providers, their officers, directors, agents, employees, and subcontractors to furnish upon demand documentation related to claims submitted to DMS for payment.

(6)(h) requires providers to permit review of all books, records, case files or a sample thereof and failure to do so may result in providers being held liable for the costs of the review, including food, lodging, and mileage.

Record Samples

In addition to obtaining a random sample of records, an investigator may also obtain:

- A targeted sample; and/or
- The records of any specific person(s) named in the complaint

Analyzing Medical Records

- School-specific issues:
 - Billing for services not rendered
 - Records signed by providers?
 - Services performed by a Medicaid provider?
 - Upcoding
 - Records were falsified or altered?
 - Unable to provide records?
 - Ineligible services
 - Unreimbursable services

Reviewing Claims Data

An investigator will:

- Review claims data with respect to allegation(s);
- Review claims data and identify suspicious billing patterns; and
- Review both paid AND denied claims

Referrals for Enforcement

All Medicaid provider cases in which there is evidence of possible criminal activity must be referred to the Medicaid Fraud Control Unit (MFCU) of the Office of the Attorney General.

If MFCU declines to prosecute the case, OIG may elect to submit the case to the Federal OIG or the United States Attorney.

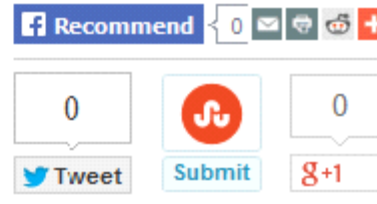
If no law enforcement entity accepts the case for prosecution then administrative action may be taken by DMS.

Real World Examples

Home → Collections → Medicaid Fraud

Former School Counselor Accused Of Medicaid Fraud

March 28, 1997 | By Robert Perez of The Sentinel Staff



A former counselor at a school for emotionally troubled children has been charged with Medicaid fraud.

Florida Department of Law Enforcement agents arrested Raymond Kimbrough Jr., 39, in Orlando on grand theft charges, said Kevin Kapusta, assistant statewide prosecutor. He was being held at the Orange County Jail in lieu of \$10,000 bail.

- Counselor in Florida school submitted bills for counseling sessions that did not occur
- Review of time records and interviews with staff indicated that counselor was not in the building during many of the on-site counseling sessions he billed to Medicaid
- http://articles.orlandosentinel.com/1997-03-28/news/9703280167_1_medicaid-fraud-fraud-control-unit-charged-with-medicaid

Cabinet for Health and Family Services

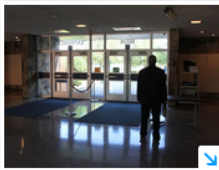


Real World Examples

Lakewood hit with subpoena for Medicaid docs

Kevin Pentón, @kevinpentonAPP

3:20 p.m. EDT June 23, 2014



(Photo: Press File Photo)



LAKEWOOD – Another week, another investigation involving the township's school district. The suspicion this time? Medicaid fraud.

The state Comptroller's Medicaid Fraud Division wants the Lakewood Board of Education to deliver copies of contracts, bills and other financial

documents it signed with several private schools and nonprofit groups since 2009.

The seven-page subpoena requires Lakewood to provide the documents by June 30 or find itself liable for contempt-of-court charges.

Isaac Zlatkin, the Board of Education's president, said he is aware of the June 16 subpoena, but could not comment on the questions it raises about whether Medicaid fraud occurred.

"We will comply with the subpoena," Zlatkin said on Friday. "I have no other details."

In 2012, Lakewood hired Rainbow Therapy — one of the companies named in the subpoena — to provide behavior consulting services at \$70 an hour, as part of a contract that was not to exceed \$60,000, according to district documents.

MORE STORIES



Monmouth and Ocean business calendar

July 28, 2014, 12:05 a.m.



What's going on in your town this week

July 28, 2014, 12:08 a.m.



'The Situation' must take anger management class

July 28, 2014, 1:59 p.m.



Watch: Dog faints when reunited with family

- Allegation appears to be that school funneled Medicaid money for counseling sessions to prizes for a weight-loss contest
- <http://www.app.com/story/news/local/jackson-lakewood/2014/06/20/lakewood-school-finances-subpoena/11114141/>

Real World Examples

Options D.C. charter school's Medicaid billing is at center of investigation



Officials say three former senior managers developed an elaborate scam that led to improper payments at the Options Public Charter School for at-risk youths, seen here in Washington. (Marlon Correa/The Washington Post)

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- School allegedly mischaracterized students as disabled to boost Medicaid billings
- School allegedly paid parents and students in gift cards to utilize medical transportation
- Large spike in annual billings to Medicaid
- School officials allegedly funneled money to a for-profit business they started

• http://www.washingtonpost.com/local/education/options-dc-charter-schools-medicaid-billing-is-at-center-of-investigation/2013/12/16/614c2dfe-5dcf-11e3-95c2-13623eb2b0e1_story.html

Real World Examples


Centralia Schools Reach Agreement with Health Care Authority on Medicaid Program Allegations


- Settlement: Centralia School Board Votes 5-0 to Pay \$372,000 to HCA; Agreement Reached After a Week of Negotiation

StoryCommenting

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Related Documents

**Settlement Agreement
Between Centralia School District
and HCA**

 ■ Attorney General Letter to District Legal Counsel

Posted: Thursday, July 10, 2014 10:20 pm | Updated: 12:58 am, Sat Jul 12, 2014.

By Christopher Brewer / cbrewer@chronline.com

The Centralia School District has agreed to pay \$372,000 to the Washington State Health Care Authority following allegations of improperly claiming reimburseable time through the Medicaid Administrative Match program at Centralia Middle School.

In a meeting Thursday evening, the Centralia School Board voted 5-0 to agree to the settlement reached between its legal counsel, Cliff Foster, and the Office of the Attorney General. That settlement was reached at 4:30 p.m. Wednesday.

The Attorney General's Medicaid Fraud Control Unit began an investigation July 2013 into allegations that the district was knowingly submitting false claims for reimbursement under the Medicaid Administrative Match program from March 2011 to June 2013.

- School allegedly created false time records for counseling sessions for students and parents
- BIG MONEY! BIG MONEY!
- Large spike in annual billings to Medicaid
- The district “knowingly filed scores of false time study forms to obtain (Medicaid) reimbursement payments that it was not legally entitled to receive.”
- http://www.chronline.com/article_0a1f5b4a-08bb-11e4-b458-001a4bcf887a.html

Real World Examples

Hancock County fraud trial set for August

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June 10, 2014 3:00 pm

GARNER | The trial of a woman accused of receiving fraudulent Medicaid payments will begin Aug. 13 in Hancock County District Court in Garner.

Brooke Banse, 30, a student advocate and at-risk coordinator at Garner-Hayfield Elementary School, is charged with first-degree fraudulent practice, a Class C felony, and tampering with records, an aggravated misdemeanor.

The Garner-Hayfield School Board placed Banse on paid administrative leave in March pending the resolution of the criminal charge.

She allegedly submitted records and received federal Medicaid payments for services she did not provide, according to the Hancock County Attorney's Office.



Banse

[Enlarge Photo](#)

- Student advocate allegedly submitted billings to Medicaid for services she did not provide
- More than \$10,000 is alleged
- Northern Iowa
- http://globegazette.com/news/local/hancock-county-fraud-trial-set-for-august/article_72c4e14a-097f-597f-9020-bbd56c2b426a.html

Real World Examples

Ex-therapist falsely billed school district, board report says

Tony Leys,, tleys@dmreg.com; 11:11 p.m. CDT May 26, 2014



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A social worker from Waukee is accused of billing a school district for services he didn't provide.

The Iowa Board of Social Work said Justin Claycomb worked as a school-based therapist from August 2009 through February 2012.

In documents released last week, the licensing board said school staff members reported that Claycomb would return students early from therapy sessions, and that he frequently was absent during the school day.

School staff members also reported that Claycomb was observed in his office without students, and was seen leaving the school grounds during time periods when he billed for therapy sessions, the board documents allege.

The board also said Claycomb's billing records "showed multiple instances where he either billed for more than one session for the same client on the same day, multiple sessions at the same time or during times when he was in supervision or at meetings."

MORE STORIES



Police: Woman, daughters attacked police at Wal-Mart

July 28, 2014, 1:24 p.m.



Freed inmate Kristina Feters, convicted as juvenile, dies

July 28, 2014, 9:59 a.m.



Terry Branstad: State help is on the way for Cherokee plant closure

July 28, 2014, 12:25 p.m.

- Therapist allegedly billed school for services not provided, which were then reimbursed by Medicaid
- Billed multiple sessions at the same time
- Student records show no students in his office at times of billings
- Ended sessions early; not at school on days billed for
- <http://www.desmoinesregister.com/story/news/2014/05/27/ex-therapist-falsely-billed-school-district-board-report-says/9616613/>

Real World Examples

Watertown whistleblower gets \$10 million in Medicaid fraud suit against New York



By Mike McAndrew | mmcandrew@syracuse.com

[Email the author](#) | [Follow on Twitter](#)

on July 22, 2009 at 9:10 AM, updated July 22, 2009 at 10:57 AM

Print

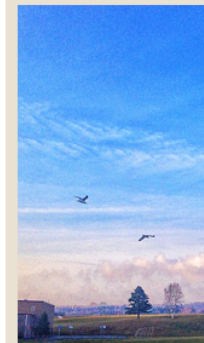
Correction: An earlier version of this story incorrectly reported the amount of money the United States will pay to a law firm representing whistle-blower Hedy Cirrincione. The firm will be paid \$210,950.

Syracuse -- A former Watertown woman will pocket \$10 million in a record-breaking settlement of a Medicaid fraud whistleblower suit against the state and New York City, the Justice Department said today.

Hedy M. Cirrincione, a speech therapist who worked in Watertown in the 1990s, triggered a federal investigation into claims that Jefferson County had improperly collected Medicaid reimbursement for services she provided to poor children in several school districts, the Justice Department said.

Cirrincione filed whistleblower suits in U.S. District Court in 1998 and 1999 against Jefferson County and the state Department of Education.

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- Jefferson County, NY and state of New York allegedly overbilled Medicaid by **\$1.07 billion**, according to an audit, for speech therapy, transportation and occupational therapy for students
- http://www.syracuse.com/news/index.ssf/2009/07/watertown_whistleblower_gets_1.html

Analytics

- The Cabinet for Health and Family Services has launched its data analytics program through SAS to help detect Medicaid provider fraud
 - Examples:
 - Providers who bill Medicaid at rates far above their peer group
 - Providers who bill for services that are not age or sex appropriate
 - Pregnancy tests for male patients
 - Occupational therapy for a five-year-old

Thank you.

Which of the following is the largest?

• A: A Peanut

• B: An Elephant

• C: The Moon

• D: A Kettle

ELEPHANTS

Larger than the moon

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